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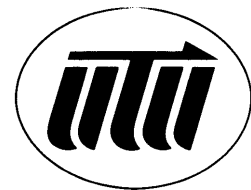
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Dockets Management System
U.S. Department of Transportation
Room PL 401
400 Seventh Street, S.W.

ORIGINAL

Washington, D.C. 20590-0001

RE: RSPA-99-5013 (HM-229)

Dear Sir or Madam:

Introduction

The United Transportation Union ("UT," represents more than 60,000 employees on the railroads in the United States. These employees are primarily in the crafts of switchmen, yardmasters, brakemen, conductors and locomotive engineers. As such, they are collectively responsible for the handling, switching, make-up and over-the-road delivery of freight and passenger trains. Our members are the actual transporters of hazardous materials on the nation's rail system. We are acutely aware of the safety implications and issues involved in the transportation of hazardous materials and our number one priority is to move those materials in a manner that is safe, not only to ourselves and our shippers, but to the communities through which we pass.

Members of our organization have actively participated in the F5800 Task Force in anticipation of an Advance Notice of Proposed Rulemaking ("ANPRM") on the subject of "Incident Report DOT Form F5800.1." During the course of our participation with that Task Force, under the capable chairmanship of Mr. Patrick J. Student representing the Union Pacific Railroad, UTU found itself in general agreement with the Task Force with regard to the bulk of the recommendations and answers to questions posed in the March 23, 1999 ANPRM by the Research and Special Programs Administration ("RAP," DOT. UTU does, however, find itself at odds with one of the recommendations submitted on behalf of the Task Force (Question 3), and feel that the answer to another question needs to be resolved (Question 11). It is to these two questions that UTU respectfully wishes to address these comments.'

¹ See Federal Register Vol. 64, No. 55, pages 13943-3047, March 23, 1999

Question 3 – “Currently, immediate notification is required for incidents where estimated carrier or other property damage exceeds \$50,000. Is this monetary threshold reasonable?”

Yes. The \$50,000 threshold is a reasonable threshold for *estimated* damage. Some reasonable, consistent monetary threshold must be in place to trigger immediate notification. UTU understands that there are other thresholds that trigger immediate notification but at the same time feels that reliance upon other criteria alone opens the door for too much delay, conjecture or abuse. By leaving the \$50,000 threshold as it now stands, the integrity of the reporting system is more likely to maintain integrity.

Question 11 – “Is there a spill quantity of an excepted material that should trigger incident reporting? For example, a spill of paint from a packaging with a capacity of less than 5 gallons is not reportable. Should a spill of a certain quantity of hazardous material be reportable regardless of the capacity of the packaging in which it was contained (e.g., a release from numerous small packagings)?”

UTU agrees with the basic recommendation of the Task Force in their reply that, “Yes. The trigger should be dependent on the hazard of the material.” We are in agreement with our dissenting colleagues, however, that an aggregate spillage amount be decided upon as a benchmark or trigger for reporting. There can be no provision that allows a number of small containers containing hazardous material to be broken and yet go unreported. This issue was discussed at length during the course of the Task Force’s meetings but it was never resolved. It is one of the few issues that still remains on the table. We have been given assurances that, if necessary before further rulemaking is completed, the Task Force can be reconvened to again try and resolve this issue.

Conclusion

The United Transportation Union greatly appreciates the opportunity to participate in this process. As mentioned above, we find ourselves in general agreement with the recommendations of the Task Force as presented by Mr. Patrick J. Student of UPRR. It is our firm belief that the intent of the Task Force has been best served by making allowance for opinions that find themselves outside the parameters of consensus. It is in that spirit that UTU asks that RSPA consider our comments along with those of the Task Force, To do so will contribute to bringing about a higher degree of safety in the transportation of passengers and freight on the nation’s railroads and to the communities through which they pass.

Respectfully submitted,



Scott Belden
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